

Message Text

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ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 CCO-00 /026 R

DRAFTED BY D/HA:JMWILSON
APPROVED BY D: CHARLES W. ROBINSON
P - MR. HABIB
S/P - MR. AUSTIN (DRAFT)
T - MR. JORDAN (DRAFT)
H - MR. JENKINS (DRAFT)
L - MR. ALDRICH (DRAFT)
S/S:SESTEINER
S - HCOLLUMS

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FM SECSTATE WASHDC
TO USDEL SECRETARY IMMEDIATE

C O N F I D E N T I A L STATE 233405 TOSEC 270441

EXDIS, FOR THE SECRETARY

E.O. 11652: GDS

TAGS: SHUM

SUBJECT: ACTION MEMORANDUM: HUMAN RIGHTS (S/S 7619761)

1. THE PROBLEM

WE HAVE RECEIVED A LETTER TO YOU FROM HUMPHREY, IN HIS
CAPACITY AS CHAIRMAN OF THE SFRC SUBCOMMITTEE ON FOREIGN
ASSISTANCE, ASKING THAT WE PROVIDE THE SUBCOMMITTEE AS
EXPEDITIOUSLY AS POSSIBLE RELEVANT DATA AND INFORMATION
ON THE OBSERVANCE OF HUMAN RIGHTS IN:

ARGENTINA -- KOREA -- IRAN
BRAZIL INDONESIA -- ETHIOPIA
CHILE -- PHILIPPINES -- NIGERIA
URUGUAY -- INDIA -- MOZAMBIQUE
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PARAGUAY -- PAKISTAN -- ZAIRE
SPAIN -- BANGLADESH

HE ALSO ASKED FOR -

- OUR INSTRUCTIONS AND GUIDELINES TO THE FIELD RELATING TO HUMAN RIGHTS UNDER THE NEW SECURITY ASSISTANCE LEGISLATION.

- ASSESSMENTS BY OUR EMBASSIES IN THESE COUNTRIES ON THE STATUS OF HUMAN RIGHTS OBSERVANCE AND THEIR RECOMMENDATIONS ON TERMINATION OR REDUCTION OF SECURITY ASSISTANCE.

- OUR DRAFT REPORTS ON THESE COUNTRIES PREPARED LAST YEAR BUT NOT GIVEN CONGRESS.

HUMPHREY SAYS ALL HE WANTS IS BACKGROUND INFORMATION FOR STAFF USE IN PREPARING FY 78 LEGISLATION AND THAT IT WILL BE KEPT CONFIDENTIAL. HE DOES NOT WANT HIS REQUEST TREATED AS A FORMAL REQUEST, WHICH WOULD TRIGGER THE JOINT RESOLUTION PROCEDURE UNDER THE NEW LEGISLATION.

2. BACKGROUND

AS YOU KNOW (AND AS HUMPHREY KNOWS) WE HAVE HAD IN THE MILL SINCE EARLY SPRING NEW REPORTS ON HUMAN RIGHTS OBSERVANCE IN EACH COUNTRY INTENDED AS A SECURITY ASSISTANCE RECIPIENT. THE FIRST VERSION OF THE NEW LEGISLATION VETOED BY THE PRESIDENT WOULD HAVE REQUIRED US TO SUBMIT THOSE REPORTS LAST SUMMER AS PART OF THE FY 77 CONGRESSIONAL PRESENTATION MATERIALS. BECAUSE THE NEW ACT AS PASSED, AUTHORIZES BOTH FY 76 AND 77 PROGRAMS, WE ARE NOT REQUIRED TO SUBMIT THESE REPORTS UNTIL NEXT SPRING WITH THE FY 78 PRESENTATION. BUT THE LEGISLATIVE HISTORY, AS POINTED OUT BY HUMPHREY IN HIS LETTER, ANTICIPATES THE INTERIM SUBMISSION OF MATERIAL BEFORE THAT TIME.

CONGRESS UNDER THE STATUTE CAN IN ANY EVENT FORMALLY CONFIDENTIAL

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REQUIRE US TO SUBMIT A "STATEMENT" CONTAINING DETAILED INFORMATION ON ANY COUNTRY THEY DESIRE TOGETHER WITH JUSTIFICATIONS AND EXPLANATIONS OF OUR ACTIONS. SUCH A REPORT COULD ALSO GIVE RISE TO THE JOINT RESOLUTION PROCEDURE ALLUDED TO BY HUMPHREY. THESE STATEMENTS COULD BE MUCH MORE DAMAGING TO OUR RELATIONS WITH THE GOVERNMENTS CONCERNED, IF THEY BECAME PUBLIC AS SEEMS LIKELY, THAN THE MORE SIMPLE INFORMATIONAL DATA REQUIRED AS PART OF THE CONGRESSIONAL PRESENTATIONAL MATERIALS.

WE NOW HAVE AVAILABLE IN DRAFT REPORTS PREPARED EARLIER ON 16 OF THE 17 COUNTRIES. (MOZAMBIQUE IS NOT NOW

PROPOSED FOR SECURITY ASSISTANCE.) THEY WERE PREPARED WITH A VIEW TO THEIR EVENTUAL PRESENTATION WITH THE FY 78 SECURITY ASSISTANCE PROGRAM, IN UNCLASSIFIED FORM, KEYED TO RELEVANT ARTICLES OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, PARTICULARLY WITH REGARD TO OBSERVANCE OF THE RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON; FREEDOM FROM TORTURE AND OBSERVANCE OF DUE PROCESS. THEY WERE DESIGNED TO HAVE AS LITTLE DISRUPTIVE EFFECT AS POSSIBLE ON OUR BILATERAL RELATIONS (GIVEN THE PROBLEM), WHILE AT THE SAME TIME BEING RESPONSIVE TO THE NEW LEGISLATION. ADDITIONALLY, WE HAVE ALREADY TESTIFIED PUBLICLY ON THE HUMAN RIGHTS SITUATIONS IN NINE OUT OF THE 17 COUNTRIES BEFORE VARIOUS CONGRESSIONAL COMMITTEES.

THERE IS LITTLE DOUBT THAT HUMPHREY WHO HAS PLAYED FAIRLY WITH US UP TO NOW, MEANS BUSINESS IN HIS REQUEST. HUMPHREY'S COOPERATION AND GOOD WILL IS ESSENTIAL TO THE SUCCESS OF OUR KEY SECURITY ASSISTANCE INITIATIVES AND HE HAS MADE CLEAR BY IMPLICATION THAT HE IS AWARE CONGRESS CAN FORCE US INTO A MUCH MORE DIFFICULT POSITION. THERE ARE CERTAIN ADVANTAGES TO US HERE IN MAKING A VIRTUE OUT OF NECESSITY.

WITH REGARD TO OUR INSTRUCTIONS TO THE FIELD, THERE IS NO PROBLEM IN MAKING THEM AVAILABLE TO CONGRESS, SINCE THEY ARE UNCLASSIFIED AND WERE PREPARED IN ANTICIPATION OF A DEMAND FROM CONGRESS. IN SOME CASES THEY HAVE ALREADY BEEN PUBLISHED IN THE CONGRESSIONAL RECORD.

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A DIFFERENT PROBLEM IS PRESENTED BY THE REQUEST FOR POSTS' VIEWS AND RECOMMENDATIONS, WHICH IN ALMOST ALL CASES ARE CLASSIFIED AND WERE INTENDED AS CONTRIBUTIONS TO THE DEPARTMENT'S DECISION-MAKING PROCESS. PAST POLICY HAS BEEN TO WITHHOLD SUCH DOCUMENTS ON THE GROUNDS OF EXECUTIVE PRIVILEGE AND THAT THEY CONSTITUTE INTERNAL WORKING PAPERS. FURTHERMORE, A PRACTICE OF YIELDING THESE REPORTS WOULD LIKELY WORK TO INHIBIT CANDOR IN REPORTING FROM THE FIELD.

RELEASING LAST YEAR'S DRAFT REPORTS ON THE 17 COUNTRIES POSES YET ANOTHER PROBLEM. WE HAVE DECLINED TO DO SO IN THE PAST ON THE GROUNDS THAT THEY TOO WERE INTENDED TO BE WORKING DOCUMENTS UNTIL SUCH TIME AS THEY WERE FINALLY APPROVED. ON THE OTHER HAND, HUMPHREY AND OTHERS BELIEVE WE SHOULD LONG SINCE HAVE HANDED THESE OVER, AND WE ARE OBLIGED TO REPORT ON THESE COUNTRIES NEXT SPRING IN ANY EVENT. WE HAVE LITTLE REASON TO WITHHOLD THE REPORTS UNLESS THEY ARE UNDERGOING SUBSTANTIAL REVISION. THEY WOULD BE SENT UP ON A CLASSIFIED BASIS. IF WE SEND THEM TO HUMPHREY, FRASER IS ALMOST CERTAIN TO ASK FOR THEM TOO. WE SEE LITTLE MORE DIFFICULTY IN BOTH HAVING THE REPORT AS

DISTINCT FROM ONLY ONE AND ANY SUCH FURTHER RELEASE WOULD ALSO BE ON A CLASSIFIED BASIS, THUS PROVIDING SOME PROTECTION.

3. RECOMMENDATIONS

HUMPHREY'S LETTER HAS BEEN REVIEWED BY HABIB, JENKINS, ALDRICH, JORDAN, WILSON AND S/P. WE ALL RECOMMEND THE FOLLOWING:

A. WITH RESPECT TO INFORMATION REQUESTED ON 17 COUNTRIES: THAT YOU AUTHORIZE H TO SEND HUMPHREY THE BASIC INFORMATION REQUESTED, BUT ON A CLASSIFIED BASIS, USING AN UPDATED VERSION OF OUR PRESENT DRAFT COUNTRY REPORTS. THESE WILL BE CAREFULLY REVIEWED TO MEET LEGITIMATE CONGRESSIONAL INTEREST AND CONCERN FOR OBJECTIVITY WITH AS LITTLE RISK OF HARM TO BILATERAL RELATIONS AS POSSIBLE AND RELEASED ONLY AFTER SEVENTH FLOOR REVIEW.
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APPROVE DISAPPROVE

B. WITH RESPECT TO POST ANALYSES AND RECOMMENDATIONS: THAT YOU AUTHORIZE H TO RESPOND TO HUMPHREY THAT WE BELIEVE THAT IT WOULD BE INAPPROPRIATE TO MAKE THESE INTERNAL WORKING PAPERS AVAILABLE EVEN ON A CLASSIFIED BASIS, BUT WOULD BE HAPPY TO DISCUSS THE SITUATION IN EACH COUNTRY IN DEPTH WITH STAFF MEMBERS.

APPROVE DISAPPROVE

C. WITH RESPECT TO LAST YEAR'S DRAFT REPORTS: THAT YOU AUTHORIZE US TO MAKE THEM AVAILABLE TO THE SUBCOMMITTEE STAFF ON A CLASSIFIED BASIS.

APPROVE: DISAPPROVE:

ALTERNATIVELY THAT YOU AUTHORIZE US TO REPLY THAT THEY CANNOT BE RELEASED EVEN ON A CLASSIFIED BASIS, BUT WE WOULD BE HAPPY TO SHOW THEM TO THE STAFF MEMBERS ON REQUEST.
-

APPROVE: DISAPPROVE:

DRAFTED BY: D/HA:JMWILSON.
CLEARED BY: D:MR. ROBINSON, P:MR. HABIB, T:MR. JORDAN,
L:MR. ALDRICH, S:HCOLLUMS, S/P:AUSTIN, H:JENKINS. ROBINSON

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